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## **Mandatory Sentencing Laws**

This information brief describes Minnesota laws mandating judges to impose specified sentences on persons convicted of certain crimes. These mandatory sentences include specified lengths of incarceration in state prison or local jails, minimum fines and other financial penalties, mandatory treatment, and other sentencing measures.

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## Minimum Imprisonment Penalties

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### Controlled Substance Offenders

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**§§ 152.021-152.025**

*See also* § 152.01, subd. 16a

If an offender is convicted of a felony-level controlled substance crime within ten years of sentence discharge for a previous felony-level controlled substance crime, the court must sentence the offender to prison for not less than the following time periods:

- first-degree crime: four years
- second-degree crime: three years
- third-degree crime: two years
- fourth-degree crime: one year
- fifth-degree crime: six months

### DWI Offenders

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**§ 169.121 (3d)**

The court must impose the following minimum sentences on persons convicted of a gross misdemeanor-level DWI offense:

- second offense within five years — not less than 30 days in jail, at least 48 hours of which must be served consecutively, or eight hours of community work service for each day less than 30 that the person is ordered to serve. This mandatory minimum sentence must be served, unless the court departs from it.
- third offense within ten years — not less than 90 days incarceration, of which at least 30 days must be served in a local correctional facility and up to 60 days must be served on home detention or intensive probation;
- fourth offense within ten years — not less than 180 days incarceration, of which at least 30 days must be served in a local correctional facility and up to 150 days must be served on home detention or intensive probation;

- fifth offense within 15 years, or a sixth or greater within the person's lifetime — not less than one year of incarceration, of which at least 60 days must be served in a local correctional facility, and the remainder must be served on home detention or intensive probation using an electronic monitoring system

As an alternative to the mandatory minimum incarceration penalties applicable to third and subsequent offenses, the court may order the person to participate in an intensive probation program of the type described in Minnesota Statutes, section 169.1265, if the program requires the person to serve at least six days consecutively in a local correctional facility.

(These mandatory minimum penalties all apply one offense earlier if the current offense involves an alcohol concentration of 0.20 percent or more, child endangerment, or failure to stop at a railroad crossing.)

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### **Unlawful Furnishing of Alcohol to Underage Persons**

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#### **§ 340A.701(2)**

If an offender is convicted of furnishing alcohol to an underage person and death or great bodily harm results from the offense, the court must impose a 90-day jail sentence on the offender unless the offender is otherwise eligible for a prison sentence under the sentencing guidelines.

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### **Domestic Abuse Order for Protection Offenders**

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#### **§ 518B.01 (14)**

The court must sentence an offender convicted of a misdemeanor-level violation of a domestic abuse order for protection (OFP) to at least three days in jail. The jail sentence may be stayed as a condition of the offender attending treatment; however, it must be executed if the offender fails or refuses to comply with court-ordered treatment.

The court must impose at least a ten-day jail sentence on offenders convicted of a gross misdemeanor-level OFP violation (i.e., violating OFP within five years of sentence discharge for prior domestic abuse, harassment, or terroristic threats conviction). The court may not stay this mandatory minimum jail sentence.

The court must impose at least a 30-day probationary jail term on an offender convicted of a felony-level OFP violation (i.e., violating OFP while possessing a dangerous weapon, or within five years of sentence discharge for the first of two or more prior domestic abuse, harassment, or terroristic threats convictions). The court may not waive this probationary jail term unless the court executes a prison sentence.

The court may waive the mandatory minimum sentence for first-time offenders if the waiver is accompanied by written findings.

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### **First-Degree Murderers**

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#### **§§ 609.106; 609.185**

The court must impose a life imprisonment sentence on a person convicted of first-degree murder. The court must impose a life imprisonment sentence without possibility of parole for: rape-murder; murder of a peace officer or correctional officer; murder in the course of a kidnapping; or first-degree murder by an offender who was discharged from a prior “heinous crime” sentence within the past 15 years.

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### **Second- or Third-Degree Murderers**

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#### **§ 609.107**

The court must sentence an offender convicted of second- or third-degree murder to the statutory maximum sentence if the offender was discharged from a prior “heinous crime” sentence within the past 15 years.

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### **Patterned Sex Offenders**

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#### **§ 609.108**

If the court finds an offender is a “patterned sex offender,” it must sentence the offender to at least double the presumptive prison sentence and must order that the offender be placed on conditional release for at least ten years following release from prison. The court must consider sentencing under the patterned sex offender law whenever an offender is convicted of criminal sexual conduct in the first or second degree.

## **Repeat or Violent Sex Offenders**

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### **§ 609.109 (2)**

The court must impose at least a **three-year prison sentence** on a person convicted of a second sex offense within a 15-year period. The sentence may be stayed only if sex offender treatment is required.

### **§ 609.109 (3)**

The court must impose a **life imprisonment** penalty on a person convicted of first-degree criminal sexual conduct if it determines that any of the following circumstances exist:

- the person has been sentenced previously as a patterned sex offender;
- the person was previously convicted (before 8/1/89) of criminal sexual conduct in the first, second, or third degree and was sentenced to at least twice the presumptive sentence; or
- the person has two previous convictions for criminal sexual conduct in the first, second, or third degree and was discharged from the sentence for the most recent prior conviction within the past 15 years

### **§ 609.109 (4)**

The court must impose at least a **30-year prison sentence** on a person convicted of first- or second-degree criminal sexual conduct involving force or violence if it determines that **both** of the following circumstances exist:

- the crime involved an aggravating factor justifying an upward sentencing departure (other than the “repeat offender” aggravating factor); and
- the person has a previous conviction for criminal sexual conduct in the first, second, or third degree

For all of the above provisions, prior convictions “decay” (*i.e.* no longer count) if more than 15 years have passed since sentence discharge.

### **§ 609.109 (6)**

The court must sentence an offender to at least **twice the presumptive prison sentence** if the person was convicted of forcible or violent criminal sexual conduct in the first, second, or third degree and the court determines that the crime involved an aggravating factor justifying an upward sentencing departure.

### **Repeat Dangerous Offenders**

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#### **§ 609.1095 (3)**

The court must sentence an offender convicted of a third violent felony to prison for at least the presumptive sentence duration applicable under the sentencing guidelines. The court must execute the sentence even if the presumptive disposition is a stayed sentence.

### **Minimum Sentences for Crimes Committed with a Firearm or Dangerous Weapon**

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#### **§ 609.11**

The court must impose and execute minimum prison sentences for certain specified crimes involving weapon possession and/or use. These minimum prison sentences are:

- use or possession of firearm in a “designated offense”: three years (five years for repeat offenders);
- possession of firearm by convicted felon prior to January 1, 1999: 18 months (five years for repeat offenders);
- possession of firearm by convicted felon on or after January 1, 1999: five years;
- use of dangerous weapon other than a firearm in a “designated offense”: one year and one day (three years for repeat offenders)

### **First-Degree Assaults Against Peace Officer or Correctional Employee**

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#### **§ 609.221 (2)**

The court must sentence an offender to a minimum of ten years in prison if the offender assaults a peace officer or a correctional employee by using or attempting to use deadly force while the officer or employee is performing official duties.

### **Repeat Domestic Assault Offenders**

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- § 609.2243 (1) The court must impose a minimum 20-day jail sentence on a person convicted of repeat (gross misdemeanor) domestic assault, at least 96 hours of which must be served consecutively. The court may waive this minimum sentence on the condition that the offender complete treatment.
- § 609.2243 (2) The court must impose a minimum 45-day probationary jail sentence on a person convicted of a repeat (felony) domestic assault, at least 15 days of which must be served consecutively.

### **Crimes for Benefit of Criminal Gang**

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- § 609.229 (4) The court must impose a minimum prison sentence of one year and one day on a person convicted of committing a felony-level crime for the benefit of a criminal gang.

### **Burglary Offenders**

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- § 609.582 (1a) The court must sentence a person convicted of burglary of an **occupied** dwelling to serve at least six months in a state or local correctional facility.
- § 609.583 If an offender is convicted for the first time of burglary of an **unoccupied** dwelling, the court must impose a 90-day jail sentence on the offender unless the offender is otherwise eligible for a prison sentence under the sentencing guidelines. The court may waive this jail term if the defendant provides restitution or community work service.

## **Minimum Fines; Assessments; Surcharges**

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### **Failure to Provide Motor Vehicle Insurance; Failure to Produce Proof of Motor Vehicle Insurance; Usage of a Fraudulent Insurance Card**

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**§§ 169.791 (6); 169.793; 169.797 (4)** The court must impose a minimum \$200 fine on a person convicted of failing to provide motor vehicle insurance, failing to produce proof of insurance, or using a fraudulent insurance card. The court may allow indigent offenders to perform community work service in lieu of the fine.

### **Violation of the Alcohol Purchase or Consumption Law by a Person under the Age of 21**

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**§ 340A.703** The court must impose a minimum \$100 fine on a person under the age of 21 who unlawfully purchases, possesses, consumes, or furnishes alcoholic beverages.

### **Minimum Fines for All Criminal Offenders**

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**§ 609.101** The court must impose a 30 percent minimum fine on all convicted criminal offenders, unless the crime is included on the “payables list” developed by the Conference of Chief Judges. The court may not waive these fines but may reduce them down to a minimum of \$50, or allow payment in installments due to the offender’s financial need. The distribution of fine proceeds depends on the type of crime committed.

<b>Crime</b>	<b>Assault/Sex Assault</b>	<b>Felony Drug</b>	<b>All Other</b>
<b>Amount of Minimum Fine</b>	30% of maximum fine for offense of conviction	30% of maximum fine for offense of conviction	30% of maximum fine for offense of conviction, unless offense is listed on “payables list”
<b>Distribution</b>	70% to local victim programs and 30% to state general fund	70% to local drug abuse prevention programs (such as DARE) and 30% to state general fund	20% to state general fund (except for certain traffic offenses and all game and fish violations)



Crime	Assault/Sex Assault	Felony Drug	All Other
	If no local program, 100% to state general fund	If no local drug abuse prevention program, 100 % to state general fund	80% distributed among local government entities as otherwise provided by law

### **Surcharges on Criminal and Traffic Offenses**

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**§ 357.021 (6) & (7)** The court must impose a \$25 surcharge on all persons convicted of a criminal offense or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking.<sup>1</sup> This surcharge must be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The court may not waive payment of the surcharge but may authorize payment of it in installments upon a showing of indigency or undue hardship.

Proceeds from the payment of surcharges are forwarded to the state treasurer and disbursed as follows:

- 1 percent to the game and fish fund to fund peace officer training for conservation officers;
- 39 percent to the peace officers training account; and
- 60 percent to the general fund in the state treasury

### **Prostitution Offenders**

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**§ 609.324 (2)** The court must impose a minimum \$1,500 fine on prostitution patrons convicted of soliciting or accepting a solicitation to engage in prostitution in a public place. The court may substitute community work service for all or part of the minimum fine.

**§ 609.324 (3)** The court must impose a minimum \$500 fine on prostitution patrons convicted of engaging in prostitution. The court must impose a minimum \$1,500 fine and order 20 hours of community work service if the offender was convicted of a prostitution offense within the past two years.

**§ 609.324 (4)** The court may substitute community work service for all or part of these minimum fines.

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<sup>1</sup> This \$25 surcharge replaces the penalty assessment previously authorized under Minnesota Statutes, section 609.101, subdivision 1 (1997 ed.). This penalty assessment varied in amount depending on the nature and severity of the offense.

**§ 609.3241**

The court must impose a penalty assessment on a person convicted of committing a prostitution offense while acting other than as a prostitute. Amounts are: \$500-\$1,000 for promoting or profiting from prostitution or engaging in prostitution with a minor; \$250-\$500 for other offenses. Funds are distributed to programs that help individuals stop engaging in prostitution.

**Disorderly House Offenders**

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**§ 609.33**

The court must impose the following minimum fines on persons convicted of operating or maintaining a disorderly house:

- first offense: \$300
- second offense: \$500
- third or subsequent offense: \$1,000

**Water Pollution Offenders**

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**§ 609.671 (8)**

Court must impose a minimum \$2,500 fine on a person convicted of certain gross misdemeanor-level water pollution violations.

**Jail Booking Fees**

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**§ 641.12 (1)**

County boards may assess a booking fee of up to \$10 on every person who is booked for confinement at a county or regional jail. This fee must be returned if the person is not charged, is acquitted, or if charges are dismissed. If the person is convicted and the booking fee is not paid by the time the person is sentenced, the court must order payment of the fee as part of any sentence or disposition ordered.

## **Mandatory Treatment Assessment; Mandatory Treatment**

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### **Controlled Substance Offenders**

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- § 152.027 (4)(b)** If a person is convicted of possessing a small amount of marijuana a second time within a two-year period, the court must order the offender to undergo chemical dependency evaluation and, if warranted, treatment.

### **DWI Offenders**

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- § 169.126** The court must order a chemical use assessment of any person convicted of DWI or another offense arising out of a DWI arrest.
- § 169.121 (5a)** The court must order the DWI offender to pay a chemical use assessment charge of \$125 or, if the offender is a repeat offender, \$130. This charge may be waived in cases of indigency or undue hardship. The court must forward all but \$100 of this amount to the state Commissioner of Finance within 60 days after sentencing or explain to the commissioner why the money was not forwarded within this time period. The county that conducts the assessment keeps the remaining \$100 to pay the costs of the assessment.
- § 169.121 (3b)** The court must order a DWI offender to submit to the level of chemical dependency treatment recommended in the chemical use assessment if the offender's alcohol concentration was 0.20 percent at the time of the current offense or the offender is being sentenced for a second DWI offense within five years or a third or subsequent offense within ten years.

### **Order for Protection Violators**

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- § 518B.01 (14)** The court must order a violator of a domestic abuse order for protection (OFP) to participate in counseling or other appropriate programs selected by the court.

## **Domestic Assault Offenders**

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- § 609.135 (5)** If a court places a domestic assault offender on probation, it must order the offender to participate in counseling if he or she resides with the victim.
- § 609.2244** The court must order a treatment investigation for any person convicted of domestic abuse, an OFP or harassment restraining order violation, or a related offense. The investigation report must contain recommendations concerning the offender's need for treatment, education, no contact with victim, etc. The court must order the offender to pay an investigation fee of at least \$50 but not more than \$125, but may waive the fee due to indigency or undue hardship.

## **Sex Offenders**

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- § 609.3452** The court must order a sex offender treatment assessment for any person convicted of criminal sexual conduct (any degree), surreptitious intrusion, obscene phone calls, or indecent exposure. The court may waive the assessment if the offender is eligible for a presumptive prison sentence or has already been assessed.
- If the assessment indicates the offender is in need of and amenable to treatment, the court must order the offender to undergo treatment if the court places the offender on probation.

## **Harassment and Stalking Offenders**

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- § 609.749 (6)** The court must order a mental health treatment assessment for any person convicted of felony-level harassment or stalking, or of another felony offense arising out of a harassment or stalking charge. The court must order the offender to pay the cost of the assessment unless the offender is indigent. The court may waive the assessment if an adequate one has already been conducted. If the assessment indicates that the offender is in need of and amenable to treatment, the court must order the offender to undergo treatment as part of the sentence.

## **Child Pornography Possession**

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- § 617.247** When a person is convicted a second or subsequent time of possessing child pornography, the court must order a mental examination of the offender.

## **Other Mandatory Sentencing Provisions**

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### **Controlled Substance Offenders**

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- § 152.0271** When a person is convicted of a controlled substance offense, the court must determine whether the offender committed the offense while driving a motor vehicle. If so, the court must notify the Commissioner of Public Safety and order the commissioner to revoke the person's driver's license for 30 days.

### **DWI Offenders**

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- § 169.121 (3)(g)**  
**§ 609.035 (2)(g)** The court must impose consecutive sentences on DWI offenders under the following circumstances:
- when the court sentences an offender for multiple DWI offenses arising out of separate behavioral incidents;
  - when the court sentences an offender for a DWI offense and, at the time of sentencing, the offender was on probation or serving a sentence for a prior DWI offense arising out of a separate behavioral incident; and
  - when the court sentences an offender for a DWI offense and another related traffic offense, if the offender has at least five prior impaired driving convictions or license revocations, or a combination of the two
- § 169.121 (3f)** When the court sentences a person convicted of certain DWI offenses, the court must order the person to participate in a program of electronic alcohol monitoring if such monitoring equipment is available. The monitoring must be continuous during the first one-third of the person's probationary period, and may be intermittent during the remainder. The person may be ordered to pay all or part of the cost of the monitoring. This requirement applies to a person convicted of:
- a third offense within five years, or a fourth or greater offense within ten years;

- a second or subsequent offense by a person under 19 years old;
- an impaired driving offense committed while the person's driver's license is canceled for being inimical to public safety; and
- aggravated DWI (i.e., impaired driving while one's license is revoked for impaired driving).

**§ 169.121 (7)**

On behalf of the Commissioner of Public Safety, the court must serve notice of license revocation on a convicted DWI offender unless the commissioner has already revoked the license or served notice of revocation.

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**Assaults Committed by State Prison Inmates**

**§ 609.2232**

If a state prison inmate is convicted of committing an assault while in prison, the court must execute the sentence for the assault and run it consecutively to any unexpired portion of the inmate's earlier sentence. The inmate must serve the assault sentence in state prison and is not entitled to credit against the sentence for time served in confinement for the earlier sentence.

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**Firearms Used in Commission of Domestic Assault or Harassment Offense**

**§§ 609.224 (3);  
609.2242 (3)**

The court must make written findings as to whether an offender convicted of assault or domestic assault owns or possesses a firearm and used it in any way during the assault.

**§§ 609.2242 (3)(b);  
609.749 (8)(d)**

The court must order summary forfeiture of any firearm used during the commission of a domestic assault or harassment/stalking offense.

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**Sex Offenders**

**§ 609.109 (7)**

If a court sentences a felony-level sex offender to prison, the court must also sentence the offender to serve a minimum period of "conditional release" after release from prison. The mandatory conditional release periods are five years for first-time offenders and ten years for repeat offenders. The conditional release period runs concurrent with the offender's supervised release term.

**§ 609.1351**

When sentencing a convicted sex offender, the court must make a preliminary determination as to whether civil commitment as a psychopathic personality or a sexually dangerous person is appropriate and, if so, must forward its findings to the county attorney.

**DNA Analysis**

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**§ 609.117  
(1999 Supplement)  
(Laws 1999, Ch.  
216, art. 2, §§ 7-9)**

The court must order persons convicted of or adjudicated for a sex offense to provide a biological sample for DNA analysis. Effective July 1, 2000, this requirement also applies to persons convicted of a violent crime listed in the law.

**Fleeing a Peace Officer**

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**§ 609.487 (5)**

When a person is convicted of fleeing a peace officer in a motor vehicle, the court must notify the Commissioner of Public Safety and order the commissioner to revoke the person's driver's license for the time period specified in the driver's licensing law.

**Theft of Public Assistance**

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**§ 609.52 (4)**

When a court determines the appropriate sentence for a person convicted of theft by wrongfully obtaining public assistance, it must consider the fact that the person will be disqualified from receiving public assistance as a result of the conviction.

**Insurance Fraud**

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**§ 609.611 (3)**

The court must order a person convicted of insurance fraud to pay restitution to persons aggrieved by the violation in addition to any other sentence imposed for the offense.

### Appendix Lesser-known Mandatory Sentencing Provisions

Citation	Sentencing Requirement
§ 12.34	Person required to provide emergency services who fails to do so: not less than ten days in jail
§ 17.181	Discrimination in purchase of farm products: not less than \$50 fine for each violation or three months in jail
§ 17.23	Violation of wildflower conservation law: not less than \$10 fine or ten days in jail
§ 17.43	Violation of chemically treated grain law: not less than \$250 fine or 60 days in jail
§ 21.122	Violation of seed potatoes law: not less than \$25 fine or ten days in jail for first violation; not less than \$50 fine or 30 days in jail for second/subsequent violation
§ 24.181	Violation of linseed oil, paint, or wood alcohol law: not less than \$50 fine or 30 days in jail
§ 31.185	Violation of food processing plant law: not less than \$15 fine or 20 days in jail for first violation; not less than \$50 fine or 60 days in jail for second/subsequent violation
§ 31.58	Violation of slaughter house/packing plant law: not less than \$25 fine or 30 days in jail for first offense; not less than \$50 fine or 60 days in jail for second/subsequent offense
§ 31.611	Selling veal of calves killed when less than four weeks old: not less than \$50 fine or 60 days in jail
§ 32.534	Violation of filled dairy products law: not less than \$3,000 fine or six months in jail for repeat violation
§ 32.645	Violation of frozen dairy foods law: not less than \$25 fine for first violation; not less than \$100 fine or 30 days in jail for second/subsequent violation
§ 34.113	Violation of nonalcoholic beverage law: not less than \$25 fine or 30 days in jail for first violation; not less than \$50 fine or 60 days in jail for second/subsequent violation
§ 60A.16	Violation of insurance company merger law: not less than \$20,000 fine and not less than one year in jail
§ 72A.08	Violation of law prohibiting rebates on insurance policy: not less than \$60 fine nor more than \$200 fine
§ 97A.301	Violation of gross misdemeanor-level game and fish law: not less than \$100 fine and not less than 90 days in jail (unless otherwise specified)
§ 121A.70	Violation of fraternity/sorority “rushing” law: not less than \$2 fine
§ 137.09	Violation of law prohibiting the U of M Board of Regents from spending in excess of the university’s appropriation: not less than \$100 fine or six months in jail
§ 148.105	Unauthorized chiropractic practice: not less than \$1,000 fine or 30 days in jail
§ 154.19	Violation of barbers law: not less than \$10 fine or ten days in jail
§ 169.444	Violation of law requiring vehicles to stop for school buses: not less than \$300 fine



Citation	Sentencing Requirement
§ 169.82	Violation of law regulating hitching trailers to motor vehicles: not less than \$25 fine
§ 181.30	Violation by railroad company official of certain wage and hour laws: not less than \$100 fine
§ 184.38	Violation of employment agency fee law: not less than \$100 fine
§ 184A.20	Violation of certain entertainment agencies laws: not less than \$25 fine. For illegal fee-splitting: not less than \$500 fine
§ 219.57	Violation of certain railroad equipment laws relating to fire prevention: not less than \$50 fine
§§ 234.23; 234.25	Violation of certain grain storage and delivery laws: not less than \$100 fine
§ 239.511	Violation of certain weights and measures laws: not less than \$10 fine or ten days in jail
§ 296A.23 (7)	Violation of certain commercial motor carrier laws: not less than \$200 fine
§ 300.61	Violation of certain fraudulent corporate practices laws: not less than one year in jail
§ 325D.68	Violation of food products monopolization law: not less than \$50 fine
§ 329.17	Violation of law relating to peddlers and transient merchants: not less than \$15 fine
§ 395.22	Violation of certain agricultural assistance/development laws relating to seed and feed: not less than \$50 fine or ten days in jail
§ 481.05	Violation of the attorney anti-solicitation laws: not less than \$50 fine
§ 617.28	Violation of law prohibiting certain medical advertisements: not less than \$50 fine
§ 617.299	Violation of law prohibiting the exhibition of obscene movies at drive-in theater: not less than 20 days in jail
§ 624.03	Violation of Sabbath-breaking law: not less than \$1 fine
§ 624.64	Violation of law prohibiting unsafe acrobatic exhibitions: not less than three months in jail
§ 624.65	Violation of itinerant carnival law: not less than \$50 fine or 30 days in jail
§ 624.68	Violation of law prohibiting insolvent banks from receiving deposits: not less than one year at Stillwater prison or \$700 fine